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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEVIN D. SMITH,	No. 2:21-cv-0439 CKD P
Petitioner,	
v.	<u>ORDER</u>
SACRAMENTO COUNTY, et al.,	
Respondents.	

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus. However, the petition is filed on the form used by California state courts, not federal court. It is not clear whether petitioner filed his petition in the wrong court or used the wrong form.

Good cause appearing, the court will grant petitioner leave to file his petition on the proper form. Petitioner is cautioned that the exhaustion of state court remedies is a prerequisite to the granting of a petition for writ of habeas corpus in this court. 28 U.S.C. § 2254(b)(1). Therefore, if petitioner has not yet presented his claims to the California Supreme Court, he will not be able to obtain relief here.

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1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Petitioner's petition for writ of habeas corpus is dismissed with leave to amend within
3 thirty days from the date of this order;¹

4 2. Any amended petition must be filed on the form employed by this court and must state
5 all claims and prayers for relief on the form. It must bear the case number assigned to this action
6 and must bear the title "Amended Petition;" and

7 3. The Clerk of the Court is directed to send petitioner the form for habeas corpus
8 application.

9 Dated: May 17, 2021



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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28 ¹ By setting this deadline, the court is making no finding or representation that the petition is not
subject to dismissal as untimely.